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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 TERRY STEINER,

10 Plaintiff,

11 v.

12 ASSET ACCEPTANCE, LLC,

Defendant.

CASE NO. C19-0271-RSM

ORDER DENYING PLAINTIFF'S
SECOND MOTION FOR
RECONSIDERATION

13 **I. INTRODUCTION**

14 This matter comes before the Court on Plaintiff Terry Steiner's Second Motion for
15 Reconsideration. Dkt. #31. On August 19, 2019, this Court granted Defendant Asset Acceptance,
16 LLC's Motion to Dismiss and dismissed the action with prejudice. Dkt. #27. Plaintiff moved the
17 Court to reconsider its decision, and on September 26, 2019, the Court denied Plaintiff's First
18 Motion to Reconsider. Dkt. #30. Plaintiff now requests that the Court again reconsider its
19 decision. Dkt. #31. The Court has determined that response briefing from Defendant is
20 unnecessary. *See* Local Rules W.D. Wash. LCR 7(h)(3).

21 **II. BACKGROUND**

22 A full summary of the case is not necessary given this Court's previous order on Plaintiff's
23 first motion to reconsider. *See* Dkt. #30. Plaintiff brought this action against Defendant under
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1 the Federal Debt Collection Practices Act (“FDCPA”), Washington Consumer Protection Act
2 (“CPA”) and related Washington state law on the basis that Defendant was demanding money
3 from decedent David Steiner’s estate to which it was not entitled. Dkt. #1 at 9-11. Plaintiff
4 argued that Washington law governing the creation of liens on homestead property, RCW §
5 6.16.030, prevented Defendant from having any claim to Mr. Steiner’s estate:

6 Under RCW § 6.16.030, a judgment does not become a lien on homesteaded real
7 estate until the equity in the homestead exceeds \$125,000. David’s homestead sold
8 for \$70,000. AA now demands that its judgment be satisfied from the proceeds of
9 the sale of David’s homestead before it will release the judgment lien.

10 Dkt. #1 at 2. Plaintiff moved for summary judgment on this same theory of the case:

11 Under Washington State law, a judgment does not become a lien on homestead real
12 estate until it is recorded with the local county’s auditor’s office and the equity in
13 the real estate exceeds the amount of the homestead of \$125,000. . . . Because the
14 value of David Steiner’s real estate never exceeded \$125,000, AA never obtained
15 a judgment lien on his real estate.

16 Dkt. #13 at 11-12. In dismissing Plaintiff’s claims, the Court determined that Plaintiff’s reading
17 of RCW § 6.16.030 was based on outdated case law that preceded the 1984 amendments to
18 Washington’s homestead statutes. Dkt. #30 at 7. Current law confirmed that Defendant indeed
19 created a lien when it recorded its judgment against Mr. Steiner and therefore had a claim against
20 the estate. *Id.*

21 In Plaintiff’s First Motion to Reconsider, she abandoned her original homestead
22 exemption argument. Instead, she argued that the Court should have considered the fact that
23 Defendant never filed a claim in probate court to collect on its judgment lien, as required under
24 RCW 11.40. Dkt. #29 at 2. Plaintiff described this probate issue as “the lynch-pin of the case”
but conceded that she never plead the claim in her original complaint. *Id.* at 8. The Court denied
Plaintiff’s motion for reconsideration on the basis that it improperly used the motion to raise a
new argument that could have been raised earlier. Dkt. #30 at 3. Nevertheless, the Court

1 considered the merits of Plaintiff's argument and found that even if the argument were timely
2 raised, Plaintiff had still failed to state a claim under the FDCPA or CPA. *Id.* at 3-4 ("Whether
3 Defendant complied with RCW 11.40 to bring its claims against the estate falls under Washington
4 state probate law—not debt collection laws.").

5 Plaintiff's Second Motion for Reconsideration sets forth the same argument regarding
6 application of Washington's probate law. However, instead of characterizing Defendant's claim
7 as a "judgment lien," Dkt. #29 at 4, she now argues that Defendant only had an unsecured claim—
8 not a judgment lien—against Mr. Steiner's estate:

9 "[T]he legislature in RCW 11.040.130 of the probate code converted whatever
10 judgment lien rights AA might have into an unsecured claim against David Steiner's
11 probate estate that required it to file a claim. It did not file a claim (Doc. 24-2).
AA's failure to file denied it the right to participate in the estate's assets, which are
the homestead.

12 Dkt. #31 at 3-4.

13 **III. DISCUSSION**

14 "Motions for reconsideration are disfavored." Local Rules W.D. Wash. LCR 7(h)(1).
15 "The court will ordinarily deny such motions in the absence of a showing of manifest error in the
16 prior ruling or a showing of new facts or legal authority which could not have been brought to its
attention earlier with reasonable diligence." *Id.*

17 Again, Plaintiff has improperly used a motion for reconsideration to argue a theory of the
18 case that she could have presented earlier. *See Kona Enterprises, Inc. v. Estate of Bishop*, 229
19 F.3d 877, 890 (9th Cir. 2000)). ("A Rule 59(e) motion may *not* be used to raise arguments . . .
20 when they could reasonably have been raised earlier in the litigation.") (emphasis in original).
21 Plaintiff's Second Motion for Reconsideration asks the Court to reconsider whether Defendant
22 took the proper steps under Washington probate law to collect on its claim against Mr. Steiner.
23 Dkt. #31 at 2 ("David Steiner's death converted AA's recorded judgment into an unsecured claim
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1 that had to be filed in his estate. By its failure to file a claim, AA lost any right to compensation
2 from David Steiner's assets."). Again, Plaintiff's argument that Defendant needed to present its
3 claim in probate is a total revision to Plaintiff's original argument: that Defendant had no claim
4 against Mr. Steiner's estate to begin with because of Washington's homestead laws.

5 Even if the Court considered Plaintiff's argument timely, it would not change the outcome
6 of this case for the same reasons discussed in this Court's previous order. *See* Dkt. #30 at 3-4.
7 This dispute arose when a third-party title company held back a portion of the proceeds from the
8 sale of Mr. Steiner's estate "to cover any claim that might arise from the AA judgment lien." *Id.*
9 at ¶ 21. Defendant offered to settle the debt for \$5,100 so the third party may release the hold-
10 back, but Plaintiff's counsel refused. *Id.* at ¶ 31. Regardless of how Plaintiff chooses to
11 characterize the debt, *compare* Dkt. #29 ("judgment lien") *with* Dkt. #31 ("unsecured claim"), a
12 valid debt nevertheless exists. By claiming that Defendant tried to negotiate a settlement of this
13 valid debt, Plaintiff has failed to state a claim under the FDCPA or CPA that Defendant engaged
14 in unfair or deceptive debt collection practices.

15 IV. CONCLUSION

16 Having reviewed Plaintiff's Motion, the relevant briefing, and the remainder of the record,
17 the Court hereby finds and ORDERS that Plaintiff's Second Motion for Reconsideration, Dkt.
18 #31, is DENIED. No further motions for reconsideration shall be filed in this closed case.

19 DATED this 21 day of October 2019.

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21 RICARDO S. MARTINEZ
22 CHIEF UNITED STATES DISTRICT JUDGE
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